

BEFORE THE DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:)

No. D-3829

BANG QUOC LY, M.D.)
Certificate No. A-38841)

L-44715

Respondent.)

NOTICE OF NON-ADOPTION
OF PROPOSED DECISION

NOTICE TO ALL PARTIES:

YOU ARE HEREBY NOTIFIED that the Division of Medical Quality voted not to adopt the proposed decision recommended in this case. The Division itself will now decide the case upon the record, including the transcript.

To order a copy of the transcript, please contact the Transcript Clerk, Office of Administrative Hearings, _____

314 West First Street, Los Angeles, CA 90012

After the transcript has been prepared, the Division will send you notice of the deadline date to file your written argument. Your right to argue on any matter is not limited. The Division is particularly interested in arguments on the following:

Why the penalty should not be reconsidered.

In addition to written argument, oral argument may be scheduled if any party files with the Division, within 20 days from the date of this notice, a written request for oral argument. If a timely request is filed, the Division will serve all parties with written notice of the time, date and place of hearing.

Please remember to serve the opposing party with a copy of your written argument and any other papers you might file with the Division. The mailing address of the Division is as follows:

Division of Medical Quality
BMQA
1430 Howe Avenue
Sacramento, CA 95825
(916) 920-6363

Dated: December 7, 1989

DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE

By Vernon A. Leeper

VERNON A. LEEPER
Chief - Enforcement

BEFORE THE
BOARD OF MEDICAL QUALITY ASSURANCE
DIVISION OF MEDICAL QUALITY
STATE OF CALIFORNIA

In the Matter of the Accusation)	
Against:)	
)	NO. D-3829
BANG QUOC LY, M.D.)	
14014 Kornblum Street)	L-44715
Hawthorne, CA 90505)	
License No. A-038841,)	
)	
Respondent.)	
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PROPOSED DECISION

This matter came on regularly for hearing before Ronald M. Gruen, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California, on October 27, 1989, at 9:00 a.m. Mark T. Rhook, Deputy Attorney General, represented the complainant. The respondent appeared in person and was represented by Ronald S. Marks, Attorney at Law. Oral and documentary evidence, and evidence by stipulation on the record having been received and the matter submitted, the Administrative Law Judge finds the following facts:

I

Kenneth J. Wagstaff is the Executive Director of the Board of Medical Quality Assurance of the State of California, Division of Medical Quality (hereinafter the "Division") and filed the accusation in his official capacity.

II

On July 26, 1982, Bang Quoc Ly (hereinafter "respondent") was issued Physician and Surgeon's Certificate No. A-038841. At all times hereinafter mentioned, the license was in full force and effect, and is current at the present time.

III

On or about December 10, 1984, in the case number CR 84-226, entitled "The United States of America v. Bang Quoc Ly" in the U.S. District Court for the District of Colorado, respondent pled guilty to 18 U.S.C. Section 287 to wit: presenting false or fraudulent claims to the government.

Pursuant to said conviction respondent was sentenced to imprisonment for a period of 5 years. It was further ordered that respondent be confined in a treatment-type institution for a period of 6 months; the execution of the balance of his sentence to imprisonment be suspended, and respondent placed on probation for a period of 5 years, to commence upon his release from confinement. It was further ordered that respondent make restitution in the sum of \$288.56 to the Colorado Department of Social Services, Medicaid Division, who was the victim of the offense in the sum of \$288.56 and that respondent pay a fine in the sum of \$5000.00. Respondent was also ordered to perform 200 hours of community service during the period of probation. Respondent has complied with all the terms and conditions of probation. He was terminated from probation in 1987, prior to the normal expiration of his term. It is also noted that respondent's medicare provider status was suspended for a period of 5 years until January 1990.

IV

The facts underlying the respondent's conviction were not developed by the evidence except that the respondent was engaged in the private practice of medicine in Colorado, when the misconduct took place. The following is a verbatim excerpt from the Information filed against the respondent in the criminal proceeding to which he pled guilty and upon which the conviction is based:

- "2. On or about the dates listed below, in the State and District of Colorado, Bang Quoc Ly knowingly presented to the Department of Health and Human Services, through the Colorado Department of Social Services and its fiscal intermediary, Colorado Blue Cross, under Title XIX of the Social Security Act (42 U.S.C. §1396 et seq.), Physician Claim forms containing the following claims for payment against the United States, knowing that said claims were false and fraudulent because the medical services described in said forms had not been rendered:

<u>Date</u>	<u>Transaction Control Number</u>	<u>Medicaid Recipient Name and Number</u> a
4/28/83	83118-129-003482-00	Tien T. Lee, [REDACTED]
5/13/83	83133-112-0002811-00	Lynda S. [REDACTED]
5/19/83	83139-125-0002786-00	Lisa W. [REDACTED]
6/1/83	83152-113-0003429-00	Alicia P. [REDACTED]
6/24/83	83175-007-0002750-00	Antoinette R. [REDACTED]
6/30/83	83181-124-0003674-00	Elizabeth J. [REDACTED]

V

Respondent received his M.D. degree in Viet Nam in 1966. After practicing medicine in Viet Nam until 1977, respondent came to the United States. In 1982 respondent was licensed to practice medicine in California and Colorado. Respondent went into private practice in Colorado and while so engaged in 1983, he submitted false physician claims for payment to government authorities for medical services which had not been rendered. This is the basis of the conviction hereinabove set forth. In 1985 after his release from incarceration in the criminal matter, respondent moved to California and went into private practice as a general practitioner. He has been in and out of private practice and currently is in private practice in Long Beach, California. He also holds down a job as the attending physician at the Bio-Medic Plasma Donor Center in Los Angeles.

VI

Respondent is 49 years of age, married and resides with his wife and their four children. He has and continues to maintain a trouble free existence in the community as well as a stable home life. The evidence demonstrated that the respondent is a dedicated physician, who gives unstintingly of his time and training to community service agencies such as the Y.M.C.A. and other groups.

VII

Respondent has expressed contrition for his misconduct. However, respondent contends that at the time he submitted the false claims leading to his criminal conviction, he was unaware that such conduct was in violation of law. It was only after the criminal proceeding were instituted that he first learned that such conduct was illegal. Taking the totality of the evidence into account, the order hereinbelow made is appropriate and necessary for the protection of the consuming public.

* * * * *

DETERMINATION OF ISSUES

Cause exists to suspend or revoke the Physician's and Surgeon's Certificate of the respondent pursuant to Business and Professions Code Sections 490, 2227 and 2236(a) because of Finding of Fact III.

The crime of which respondent was convicted is substantially related to the qualifications, functions and duties of a physician and surgeon.

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

The certificate, heretofore issued to respondent Bang Quoc Ly, M.D. to practice medicine and surgery in the State of California is hereby revoked, provided, however, execution of said order of revocation is hereby stayed and the respondent is placed on probation for a period of five (5) years upon the following terms and conditions:

1. Respondent shall obey all federal, state and local laws, and all rules governing the practice of medicine in California.

2. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Division, stating whether there has been compliance with all the conditions of probation.

3. Respondent shall comply with the Division's probation surveillance program.

4. Respondent shall appear in person for interviews with the Division's medical consultant upon request at various intervals and with reasonable notice.

5. The period of probation shall not run during the time respondent is residing or practicing outside the jurisdiction of California. If, during probation, respondent moves out of the jurisdiction of California to reside or practice elsewhere, respondent is required to immediately notify the Division in writing of the date of departure, and the date of return, if any.

6. Within sixty (60) days of the effective date of this decision, respondent shall submit to the Division for its prior approval a course in Ethics, which respondent shall successfully complete during the first year of probation.

* * * * *

Upon successful completion of probation, respondent's certificate will be fully restored.

If respondent violates probation in any respect, the Division, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against respondent during probation, the Division shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

Dated: 8 November '89


RONALD M. GRUEN
Administrative Law Judge
Office of Administrative Hearings

RMG:mh